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STATE FOR EUR/ERA BROCKWELL AND EUR/CE ASCHEIBE  
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USEU BRUSSELS FOR LSNYDER

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TAGS: [EFIN](#) [ETTC](#) [PTER](#) [PREL](#) [PGOV](#) [PINR](#) [UNSC](#) [KTFN](#) [RO](#)

SUBJECT: ROMANIA ON C-RE8-01539 AND TERRORIST FINANCE:  
LITTLE WORRY ABOUT FALLOUT FROM ECJ RULING

REF: A) STATE 83598 B) SNYDER- EU TFCO EMAILS SEP 1-26

Classified By: DCM Jeri Guthrie-Corn for reasons 1.4(b) and (d)

11. (S/NF) Summary. In response to ref A request for information, the Ministry of Foreign Affairs (MFA) provided EconOff a brief outline of the procedure that led up to the Muhajedin-E Khalq (MEK) listing within the EU. MFA believes that this listing will remain in place for the immediate future. MFA also shared further insight into the mechanics of the European Commission's process for listing an organization. With regard to the European Court of Justice ruling on the Kadi and Al-Barakaat cases (ref B), the Government of Romania (GOR) sees little reason to be concerned. The GOR believes that ultimately the Commission will devise legal rules which would meet the ECJ's requirements, while at the same time maintaining a system for effectively implementing UNSCR 1267 sanctions. End summary.

12. (S/NF) EconOff met on September 23rd with Elena Paris, Unit Chief in the Office for the Implementation of International Sanctions at the Ministry of Foreign Affairs (MFA), to discuss ref A request for information about the terrorism listing process within the EC. Paris explained that EC listings may be proposed by any "competent authority" and that listings are reviewed every six months. Listings are adopted by consensus and must have an evidence-based reason to believe that an individual or group is connected to terrorism. There is no automatic link between a Member State domestic listing and an EC listing, meaning that the "competent authority" proposing a listing in any given case may be different. With regard to the MEK, Paris was reluctant to go into details, except to say that France had proposed a listing after the UK had withdrawn its own proposal, and that the Council consensus was that there was sufficient reason to believe the group was connected to international terrorism. The implication is that the UK was able to support an EC listing at the lower "reason to believe" standard, despite being forced to lift its own domestic designation; i.e. the UK was unable to propose the EC listing but did not object to the consensus opinion. Paris offered that the evidence presented in support of the MEK listing was strong, and that she did not expect a delisting to result from the upcoming six-month reviews.

13. (SBU) Paris told EconOff that the ECJ ruling in the Kadi and Al-Bakaarat cases (ref B) poses little threat in her view to automatic, or near-automatic, listings based on UNSCR 1267. The MFA's interpretation of the Court's decision is that implementing 1267 sanctions is still permitted under EU legislation, but that the method for putting this listing in place must provide for reasonable human rights protections.

Paris claimed to have seen no legal drafts yet laying out how this would be accomplished, but believes that the scope of the Court's decision in this case was rather limited. She expects that a legal framework will soon be developed which will protect both the implementation of 1267 sanctions and the due process procedures that the ECJ found lacking in its recent decision.

15. (C) Comment. Based on post's conversation with the MFA, it appears that designations proposed at the EC level may be easier to accomplish, in some aspects, than a domestic listing for certain Member States. The rather loose consensus style for decisions, and the relatively limited "reason to believe" standard, may allow Member States to support a listing that would be impossible to accomplish domestically based on the same evidence. End Comment.  
TAUBMAN